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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/886,965	06/21/2001	Russell L. Kress	Kress 400	5029

7590 02/04/2004

Mr. Edward J. Timmer  
Walnut Woods Centre  
5955 W. Main Street  
Kalamazoo, MI 49009

EXAMINER

HORTON, YVONNE MICHELE

ART UNIT	PAPER NUMBER
----------	--------------

3635

DATE MAILED: 02/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/886,965

Applicant(s)

KRESS, RUSSELL L.

Examiner

Yvonne M. Horton

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on 07 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) 1-11,13-15,17-20,24,25 and 28-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 51 and 53 is/are allowed.
- 6) ☐ Claim(s) 1,4,6-9,11,13-15,17,18,20,24,25,28,29,31-41,43-49,52,54 and 55 is/are rejected.
- 7) ☐ Claim(s) 2,3,5,10,19,30,42 and 50 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Continued Prosecution Application***

The request filed on 11/7/03 for a Continued Examination (RCE) under 37 CFR 1.116 based on parent Application No. 09/886,965 is acceptable and an RCE has been established. An action on the RCE follows.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11,13,14 and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #3,533,200 to ZOEBELEIN. ZOEBELEIN discloses a modular living enclosure including a plurality of molded plastic sections (10-13), column 6, lines 53-55, such that the sections (10-13) define a floor (14), a top wall (25), four side walls (colored red), and a door opening (31); wherein , the enclosure includes an integral bathroom feature in the form of a toilet (15). Regarding claim 13, the enclosure further includes a waste disposal (45), column 8, lines 39-40 that communicates with the toilet (15). In reference to claim 14, the bathroom feature also includes a washbasin (17). Regarding claim 41, the ZOEBELEIN discloses a plurality of enclosures, column 5, line 39, assembled in a building.

Claims 35-37 and 39 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 5,111,626 to FORTUNE. FORTUNE disclose the use of a modular living

Art Unit: 3635

enclosure comprising a plurality, column 4, lines 7-10, of molded plastic sections defining a floor (26), and four upright side walls (colored orange) a top wall (TW) and a door opening (colored yellow), an integral bathroom feature (40,44,45), an electrical actuator (111) and a programmable computer (119) to control water flow. Regarding claims 36 and 37, the computer (119) also controls the power to a lighting fixture (123) and a ventilation fan (61), column 7, lines 44-47. In reference to claim 39, the computer unit (119) also controls heat to a heater (96) and a sump chamber (83).

Claims 43,44 and 46-48 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #3,533,200 to ZOEBELEIN. ZOEBELEIN discloses a modular living enclosure including a plurality of molded plastic sections (10-13), column 6, lines 53-55, such that the sections (10-13) define a floor (14), a top wall (25), four side walls (colored red), and a door opening (31); wherein , the enclosure includes an integral bathroom feature in the form of a toilet (15) connected to building water and sewer services (column 9, lines 61-63), discharge conduits (45), and lighting feature (26). Regarding claim 44, the enclosure further includes a waste supply pipes (40,41) that communicates with the toilet (15). In reference to claim 46, a washbasin (17) is also connected to the building water services. Regarding claim 47, the building sewer service is connected to a discharge conduit (45). In reference to claim 48, the sewer is also connected to a drain conduit (46,47) of the washbasin (17).

Claim 52 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #3,533,200 to ZEOBELEIN. ZOEBELEIN discloses a modular living enclosure including a plurality of molded plastic sections (10-13), column 6, lines 53-55, such that the

Art Unit: 3635

sections (10-13) define a floor (14), a top wall (25), four side walls (colored red), and a door opening (31); wherein multiple lower ones (10) define the floor (14) and portions (20) of the upright walls (colored red), column 6, lines 66-68, multiple upper ones (12) define the top (25), and multiple other ones (11) that are disposed between the lower (10) and upper (12) ones define the remaining portions (22) and (colored green) of the side walls (colored red), see the marked attachment.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 4, 6, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #3,533,200 to ZOEBELEIN in view of RE 30,691 to HALLSTROM et al. ZOEBELEIN discloses a modular living enclosure including a plurality of molded plastic sections (10-13), column 6, lines 53-55, such that the sections (10-13) define a floor

Art Unit: 3635

(14), a top wall (25), four side walls (colored red), and a door opening (31); wherein multiple lower ones (10) define the floor (14) and portions (20) of the upright walls (colored red), column 6, lines 66-68, multiple upper ones (12) define the top (25), and multiple other ones (11) that are disposed between the lower (10) and upper (12) ones define the remaining portions (22) and (colored green) of the side walls (colored red), see the marked attachment. ZOEBELEIN discloses the basic claimed modular living enclosure except for the wall including an abrasion resistant ceramic particulate-filled resin layer on an interior thereof. HALLSTROM et al. teaches that it is known in the art to provide a plastic surface (10) with an abrasion resistant ceramic particulate-filled resin layer (12). Hence, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the plastic walls of ZOEBELEIN with the abrasion resistant ceramic particulate-filled resin layer of HALLSTROM et al. in order to provide the plastic surface with a surface that inhibits wear of the surface while also preventing breaking and cracking of the surface and giving traffic imposed thereon a grip surface thereby preventing slipping and substantial accidents from happening. Regarding claim 4, the enclosure sections (10,13) include L-shaped flanges (consisting of, for instance, portions of wall (230 and flanges (32,34)); wherein portion (32,34) of the L-shaped flanges extend beyond the sections (10-13) and are allowed to nest together, see figure 5. In reference to claims 6,8 and 9, the enclosure includes an integral furniture feature (the integral counter of the washbasin, colored blue) and bathroom feature in the form of a toilet (15) or a washbasin (17).

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #3,533,200 to ZOEBELEIN in view of Re30,691 to HALLSTROM et al, as applied to claim 1 above, and further in view of US Patent #5,111,626 to FORTUNE. ZOEBELEIN as modified by HALLSTROM et al. discloses the basic claimed modular enclosure except for the furniture feature being a bed or desk. FORTUNE teaches that it is known in the art at the time the invention was made to form a modular enclosure with an integral furniture feature such as a bed (52) and a desk (42). Hence, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the modular enclosure of ZOEBELEIN, as modified by HALLSTROM et al., with the desk (42) and bed (52) of FORTUNE in order to create a modular enclosure that is versatile. The features included in these types of enclosures depend heavily upon how the enclosure is intended to be employed. Thus, the selections of these features are an obvious matter of design choice. For instance there are modular enclosures known in the art that are used only for great disasters and merely provide toilets and washbasins as integral features. However, there are modular enclosures for extended living experiences and have features ranging from desks, to beds and stoves.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #3,533,200 to ZOEBELEIN in view of US Patent #5,398,465 to TAGG. ZOEBELEIN discloses the basic claimed enclosure including a washbasin (17) except for the use of a sump chamber. Although ZOEBELEIN does not explicitly detail the use of a sump chamber, he does disclose the use of a waste pipe (not shown) that is inherently known to be attached to a sump chamber of some sort. TAGG teaches that

Art Unit: 3635

it is known in the art to attach a washbasin to (113) to a sump chamber (103,131), also column10, lines 1 and 2. Hence, it would have been obvious to one having ordinary skill in the art to provide the structure of ZOEBELEIN with the sump chamber of TAGG in order to properly and more efficiently drain fluid and waste material therefrom.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #3,533,200 to ZOEBELEIN in view US Patent #5,398,352 to KORDELIN. ZOEBELEIN discloses the basic claimed enclosure except for the use of a floor drain. KORDELIN teaches that it is known in the art to provide the floor of a modular enclosure with a drain (17),column 2, lines 13-16, 24-26, and 37-38. Hence, it would have been obvious to one having ordinary skill in the art to provide the structure of ZOEBELEIN with the floor drain of KORDELIN in order to properly and more efficiently drain fluid and waste material therefrom.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #3,533,200 to ZOEBELEIN in view US Patent #5,398,352 to KORDELIN and US Patent #5,398,465 to TAGG. ZOEBELEIN discloses the basic claimed enclosure except for the use of a floor drain and a sump chamber. KORDELIN teaches that it is known in the art to provide the floor of a modular enclosure with a drain (17),column 2, lines 13-16, 24-26, and 37-38. And TAGG teaches that it is known in the art to attach a washbasin to (113) to a sump chamber (103,131), also column10, lines 1 and 2. Hence, it would have been obvious to one having ordinary skill in the art to provide the structure of ZOEBELEIN with the floor drain of KORDELIN and the sump chamber of TAGG in order to properly and more efficiently drain fluid and waste material therefrom.



Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #3,533,200 to ZOEBELEIN in view of US Patent #5,111,626 to FORTUNE. ZOEBELEIN discloses the basic claimed modular enclosure except for the furniture feature being a bed or desk. FORTUNE teaches that it is known in the art at the time the invention was made to form a modular enclosure with an integral furniture feature such as a bed (52) and a desk (42). Hence, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the modular enclosure of ZOEBELEIN with the desk (42) and bed (52) of FORTUNE in order to create a modular enclosure that is versatile. The features included in these types of enclosures depend heavily upon how the enclosure is intended to be employed. Thus, the selections of these features are an obvious matter of design choice. For instance there are modular enclosures known in the art that are used only for great disasters and merely provide toilets and washbasins as integral features. However, there are modular enclosures for extended living experiences and have features ranging from desks, to beds and stoves.

Claims 24,28,29 and 31-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,111,626 to FORTUNE in view of US Patent #5,398,352 to KORDELIN. FORTUNE disclose the use of a modular living enclosure comprising a plurality, column 4, lines 7-10, of molded plastic sections defining a floor (26), and four upright side walls (colored orange) a top wall (TW) and a door opening (colored purple); wherein the enclosure further includes a bathroom feature such as a toilet (40) molded therewith and a furniture feature such as a bed (52) and a desk (42) molded integrally

Art Unit: 3635

therewith. FORTUNE discloses the basic claimed enclosure except for the use of a floor drain. KORDELIN teaches that it is known in the art to provide the floor of a modular enclosure with a drain (17), column 2, lines 13-16, 24-26, and 37-38. Hence, it would have been obvious to one having ordinary skill in the art to provide the structure of FORTUNE with the floor drain of KORDELIN in order to properly and more efficiently drain fluid and waste material therefrom. In reference to claim 28, the enclosure of FORTUNE also includes a lighting fixture (123). Regarding claim 29, the enclosure of FORTUNE also includes a ventilation fan (61). In reference to claim 31, the enclosure of FORTUNE further includes a sprinkler (126). Regarding claim 32, although FORTUNE is silent in regards to the sprinkler having holes therein, it would have been obvious to one having ordinary skill in the art at the time the invention was made that the sprinkler (126) of FORTUNE has holes in order to allow water to be released and distributed therefrom. In reference to claims 33 and 34, the enclosure of further includes a temperature detecting mechanism (118) and an emergency signal switch (120).

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,111,626 to FORTUNE in view of US Patent #5,398,352 to KORDELIN, as applied to claim 24 above, and further in view of US Patent #Re 30,691 to HALLSTROM et al. FORTUNE, as modified by KORDELIN, discloses the basic claimed modular living enclosure except for the wall including an abrasion resistant ceramic particulate-filled resin layer on an interior thereof. HALLSTROM et al. teaches that it is known in the art to provide a plastic surface (10) with an abrasion resistant

Art Unit: 3635

ceramic particulate-filled resin layer (12). Hence, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the plastic walls of FORTUNE, as modified by KORDELIN, with the abrasion resistant ceramic particulate-filled resin layer of HALLSTROM et al. in order to provide the plastic surface with a surface that inhibits wear of the surface while also preventing breaking and cracking of the surface and giving traffic imposed thereon a grip surface thereby preventing slipping and substantial accidents from happening.

Claims 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,111,626 to FORTUNE. FORTUNE discloses the use of a modular enclosure as detailed above and including a computer (119) that controls a sprinkler (126); however, FORTUNE is silent with regards to the use of a temperature or smoke sensor. Although FORTUNE is silent in this regard, sprinklers are commonly known to be accompanied by temperature or smoke sensors. Hence, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the sprinkler system of the enclosure of FORTUNE with temperature or smoke sensors in order to ensure ample and proper activation of the sprinklers in the event of a fire. Regarding claim 39, FORTUNE does not explicitly detail that the pump chamber are controlled by the computer; however, it would have been obvious to one having ordinary skill in the art at the time the invention was made that the computer of FORTUNE also operates the pump and chamber.

Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #3,533,200 to ZOEBELEIN. ZOEBELEIN discloses the basic claimed enclosure

Art Unit: 3635

except for explicitly detailing that the building service is connected to a waste disposal. However, it may be obviously implied from column 8, line 38, that the toilet (15) at least communicates with a waste disposal system.

Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #3,533,200 to ZOEBELEIN in view of US Patent #5,111,626 to FORTUNE. ZOEBELEIN discloses the basic claimed enclosure except for explicitly detailing that his ventilation fitting (27) is a fan. FORTUNE teaches that it is known in the art to provide a modular enclosure with a ventilation fan (61). Hence, it would have been obvious to one having ordinary skill in the art to provide the enclosure of ZOEBELEIN with the ventilation fan of FORTUNE in order to ensure that the unit is properly ventilated.

Claims 54 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,398,465 to TAGG in view US Patent #5,398,352 to KORDELIN. TAGG discloses the use of a modular living enclosure including a plurality of sections defining a floor (25), a top wall (12), four upright side walls (13-16) and a door opening (colored pink). TAGG discloses the basic claimed enclosure except for the use of a floor drain. KORDELIN teaches that it is known in the art to provide the floor of a modular enclosure with a drain (17), column 2, lines 13-16, 24-26, and 37-38. Hence, it would have been obvious to one having ordinary skill in the art to provide the structure of TAGG with the floor drain of KORDELIN in order to properly and more efficiently drain fluid and waste material therefrom. Regarding claim 55, the floor drain of KORDELIN includes a drain trap in the form of a separate water feeder and grating (17), column 2, lines 11-16.

***Allowable Subject Matter***

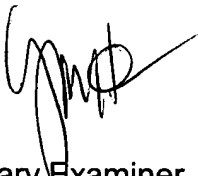
Claims 2,3,5,10,19,30,42 and 50 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 51 and 53 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703)308-1909. The examiner can normally be reached on 6:30 am - 3:0 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (703)308-0839. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-2168.



YMH  
Primary Examiner  
January 23, 2004

Application/Control Number: 09/886,965  
Art Unit: 3635

Page 13

**Oct. 13, 1970**

**R. G. ZOEBELEIN**

**3,533,200**

## PREFABRICATED ROOM ASSEMBLY

**Filed Aug. 29, 1967**

5 Sheets-Sheet 1

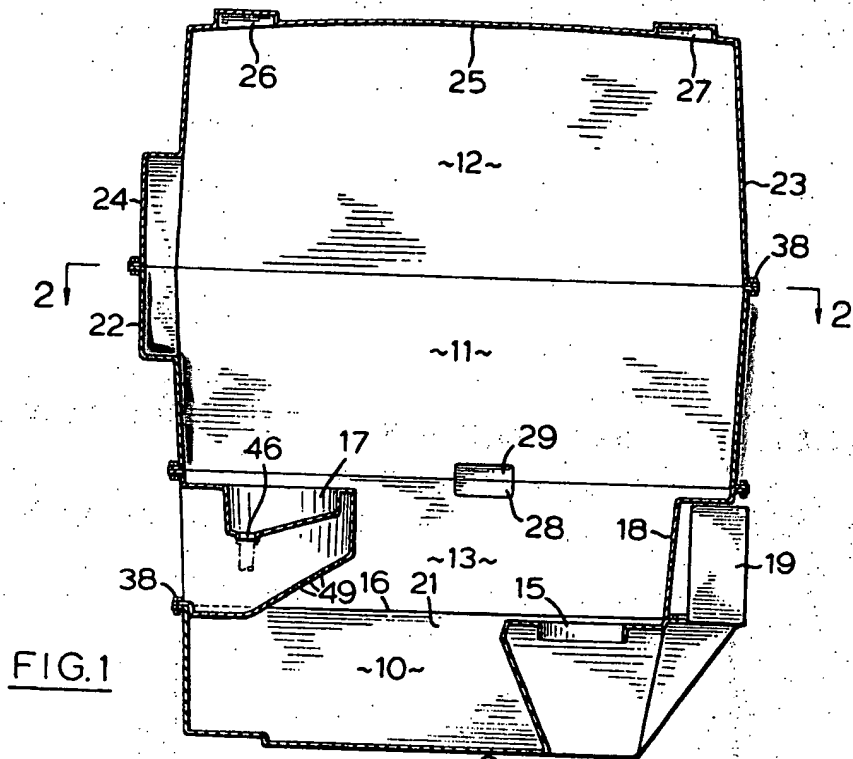


FIG. 1

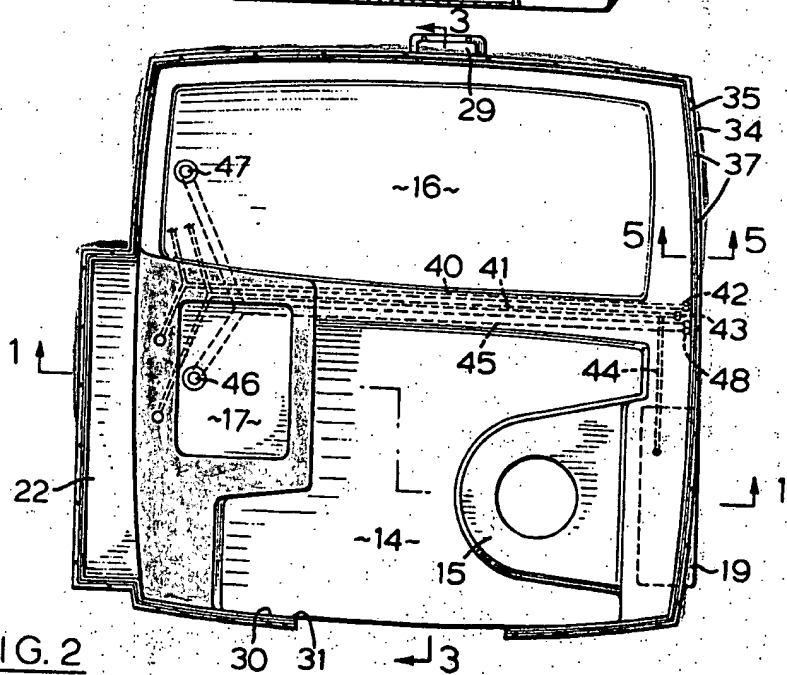


FIG. 2

INVENTOR.  
ROBERT GEORGE ZOEBELEIN  
BY *Maybee & Legris*  
ATTORNEYS

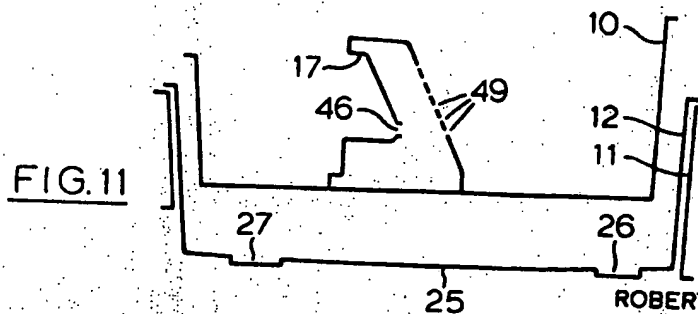
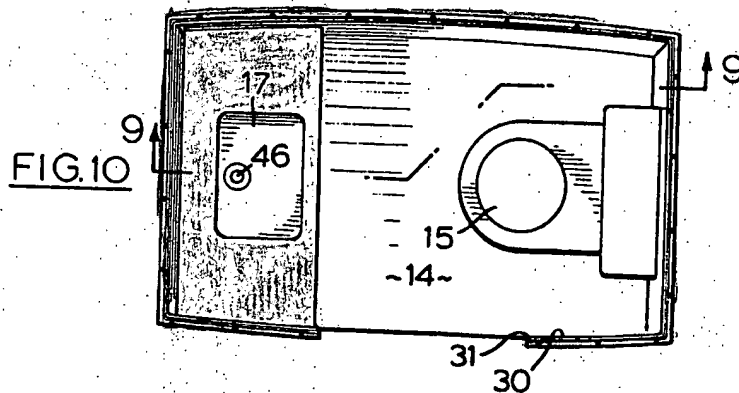
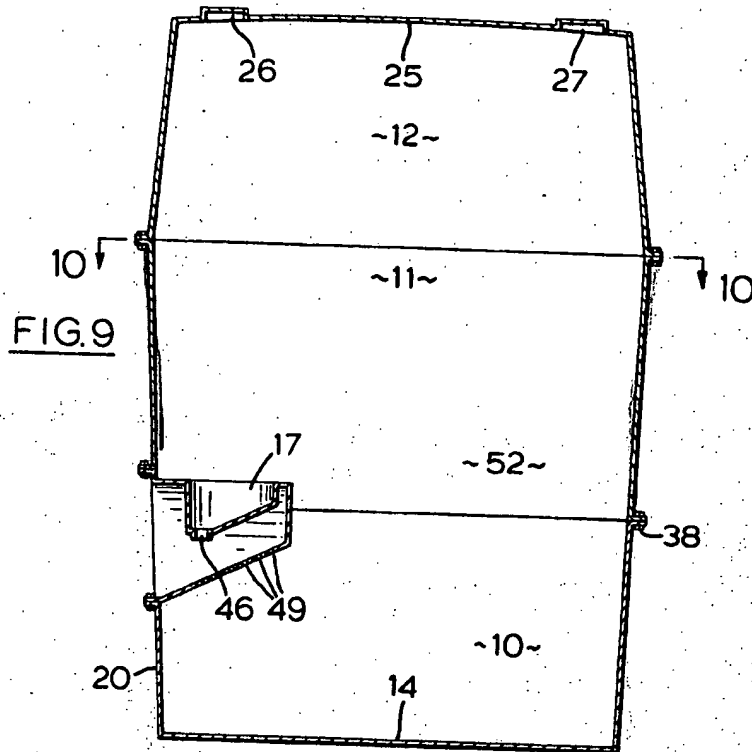
Oct. 13, 1970

R. G. ZOEBELEIN  
PREFABRICATED ROOM ASSEMBLY

3,533,200

Filed Aug. 29, 1967

5 Sheets-Sheet 4



INVENTOR.  
ROBERT GEORGE ZOEBELEIN  
BY *Maybee & Legris*  
ATTORNEYS



FIG. 1

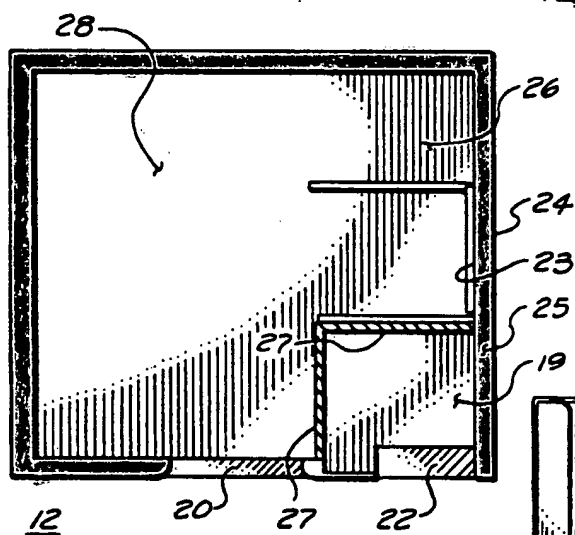
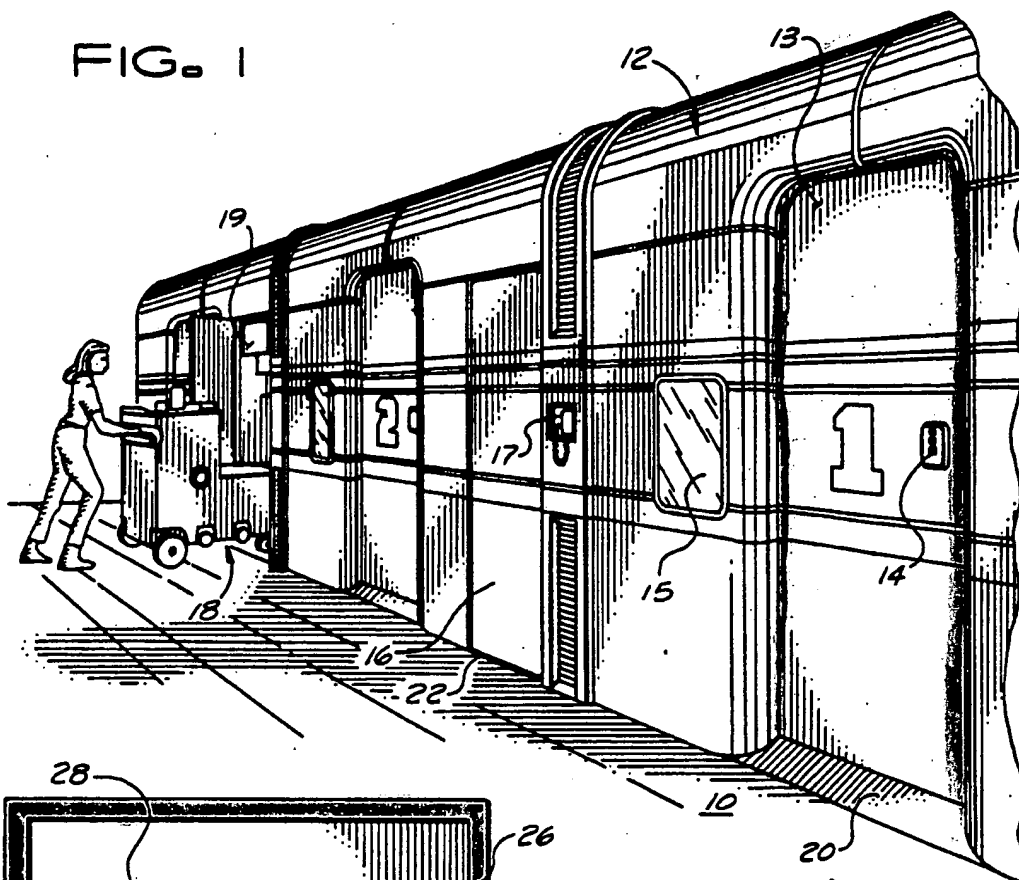


FIG. 2

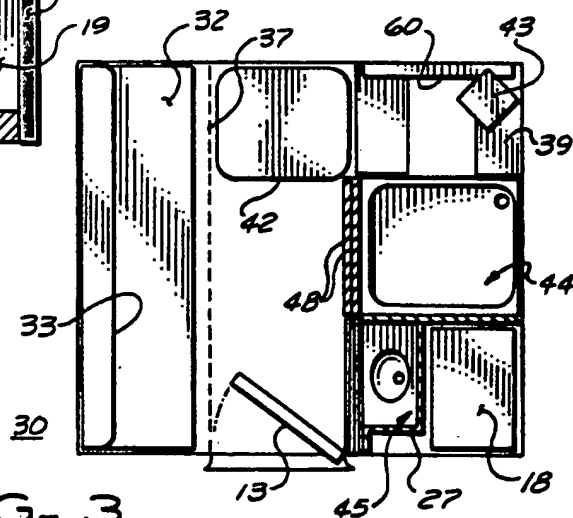


FIG. 3

